THE FARM CREDIT COUNCIL
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Via E-Mail

August 22, 2008

Mr. Gary Van Meter
Deputy Director
Office of Regulatory Policy
Farm Credit Administration
1501 Farm Credit Drive
McLean, VA 22102-5090

RE: RIN 3052-AC39 Regulatory Burden

Dear Mr. Van Meter:

The Farm Credit Council (Council), on behalf of its membership, appreciates the opportunity to respond to the FCA's request for comment concerning Regulatory Burden that was published in the June 23, 2008 *Federal Register* (73 Fed Reg 35361).

First, we want to commend the FCA for the systematic review it conducts of its regulations to determine those that may be revised or eliminated because they are duplicative, ineffective, or impose burdens greater burdens than the benefits received.

The comments that follow were developed after soliciting input from all Farm Credit System (System) institutions. A teleconference was held to discuss and incorporate into the comments the input received. Prior to being finalized, a request for additional comments was made. Several System institutions will also be submitting their own responses to your request for input. We urge you to consider their comments as you continue your regulatory review.

General

In your recently adopted Fall 2008 Regulatory Agenda you include an "end review of the "Farm Related Services" authority. We want to specifically urge the FCA to consider a revision to Part 613 of your existing regulations regarding eligibility for farm-related service financing (613.3020). We believe that that Farm Credit Act (the "Act") allows the FCA considerable discretion in defining the types of businesses eligible to be considered "farm-related" services. We also believe the existing "50%" requirement for full financing is too restrictive. In many cases involving farm-related businesses, the service component is so interwoven with the product being provided, that an attempt to distinguish the service amount from the value of the product can be arbitrary. Moreover, in the typical case, the business seeking financing does not distinguish the service component in its accounting records.

In a related matter, we believe the FCA should include "aquatic-related" service providers as eligible for System financing. We find nothing in the Farm Credit Act which dictates the exclusion of aquatic-related service providers from the listing of those entities that are eligible. By specifically authorizing financing for aquatic producers Congress has consistently demonstrated its commitment to put the aquatic industry on a par with farming and ranching in terms of eligibility for System financing. We are aware of numerous instances in which aquatic-related service businesses provide a critical benefit for the aquatic industry. Given Congress's clear intent to help this industry, it is illogical to exclude these service businesses. Moreover, we find that a strong need exists for fishing-related business financing, and that the System is ideally positioned to provide that credit. We believe the FCA should undertake a comprehensive review of this important authority, and remove any impediments to eligibility for System financing that are not based on the Act.

We also note that in your Fall 2008 Regulatory Agenda you have included both "Cooperative Principles" and "Director Election" as issues you will be considering. We believe both these topics are of great significance and we encourage you to consider needed revisions to these regulations as soon as possible. Existing regulations allow associations the option of disclosing information regarding compensation of senior officers in either the annual report or in the annual meeting information statement. System banks should have the similar ability to disclose that information in some other manner to their stockholders.

Specific Comments

Your notice targets six specific areas of the regulations for comment. While a comprehensive review of those sections of the regulations is appropriate, we want to draw your attention to the following specific issues.

Part 612

Current regulations regarding standards of conduct for directors and employees, and reports to stockholders (Part 620) should be clarified and simplified to facilitate compliance.
Existing regulation 612.2157 contains a blanket prohibition on the employment of joint officers by a System bank and one of its affiliated associations. Some System institutions have noted that there may be situations in which the best "business case" practice for cost effective operations could be the use of some joint officers. We encourage the agency to consider revising this provision to allow discretion in appropriate circumstances.

Part 614

We encourage the agency to particularly review 614.4040 in regard to the required amortization period for intermediate term loans. Loan terms should be based on sound lending practices, the borrower's credit strength, and the cash flow analysis of the operation. We also suggest the agency review requirements relative to the purchase and sale of interests in loans (614.4325). Existing requirements requiring each institution to make an independent credit judgment on the credit worthiness of the borrower may not be cost effective, and there may be alternative methods of making appropriate credit decisions regarding purchase of a participation, particularly in cases involving a pool of loans. In those situations where a System bank acts as agent in a transaction, the existing repurchase requirements should also be reevaluated. Finally, existing rules regarding loan approval authority should be re-evaluated (614.4460-4470) to

reflect both structure changes in the System (references to the "district board") as well as the relationship between banks and their associations. Direct lender associations already have extensive procedures for "official" loans, in terms of loan underwriting, credit administration, and internal review and reporting. A regulatory requirement for bank approval of those loans conflicts with the debtor- creditor relationship between the bank and an association (and in any event that bank retains its statutory responsibilities with respect to its associations).

Part 617

We believe the statutory requirements for disclosure of "effective interest rates" ("EIR") for agricultural loans allow the agency more discretion, and should result in fewer regulatory requirements on System lenders. While Federal Reserve rules for "truth-in-lending" type disclosures for consumer purpose loans provide some guidance in this area, the two systems are not the same. Recognizing that virtually all System direct lenders now have minimum stock purchase requirements at the customer level, we encourage the agency to specifically consider the use of standardized representative examples regarding the impact of stock purchase to be provided at the time the customer initiates his or her first loan with the association.
At that time, examples could be provided, showing examples of the EIR at various levels of total indebtedness. We also believe the procedures for disclosures of rate change notices on loans with an "external" index can be streamlined.

Part 618

We note that the agency is scheduled to compete an "end review" of financially-related services" in the Fall of 2008. We look forward to providing comments to the agency as the process to consider changes to the regulations in this area continues.
In regard to the provisions of the regulations on confidentiality of borrower information, we encourage the agency to revisit the requirements as they relate to issuers of subpoenas, as well as the requirements with respect to the legitimate inquiries of state law enforcement agencies.
We also encourage the FCA to reconsider the existing regulatory restrictions in 618.8040 regarding incentive compensation related to the sale of insurance.

Again, we thank the FCA for this opportunity to comment on this important rule-making effort. We urge the agency to move forward with its consideration of the comments received, and to adopt a Final Rule as soon as you have completed your review. Please do not hesitate to contact me if we can provide any other information.

Respectfully submitted,

Charles P. Dana
Senior Vice President and General Counsel